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07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

09 DURIELL JAMES SIDERS,)
10 Plaintiff,) CASE NO. C09-1799-JLR
11 v.) REPORT AND RECOMMENDATION
12 OFFICER D. PASCO, et al.,)
13 Defendants.)
14 _____)

15 INTRODUCTION AND BACKGROUND

16 Plaintiff proceeds *pro se* and *in forma pauperis* in this 42 U.S.C. § 1983 civil rights
17 case. Defendants filed a Motion to Dismiss for Failure to Prosecute. (Dkt. 40.) For the
18 reasons described below, the Court agrees that this matter should be dismissed without
19 prejudice based on plaintiff's failure to prosecute.

20 On January 24, 2011, a Report and Recommendation issued in this matter and mailed to
21 plaintiff's address of record was returned to the Court as undeliverable. (Dkt. 34.) A hand
22 written note on the returned envelope indicated that plaintiff had been released on January 10,

01 2011. (*Id.*) Two subsequent Orders issued by the Court were likewise returned as
02 undeliverable. (*See* Dkts. 36-39.) Plaintiff has not provided either counsel for defendants or
03 the Court with an updated address. (*See* Dkt. 41.)

04 Pursuant to Local Civil Rule 41(b)(2), plaintiff is required to keep the Court and
05 opposing parties advised as to his current address. "If mail directed to a pro se plaintiff by the
06 clerk is returned by the Post Office, and if such plaintiff fails to notify the court and opposing
07 parties within 60 days thereafter of his current address, the court may dismiss the action without
08 prejudice for failure to prosecute." Local CR 41(b)(2). *See also* Fed. R. Civ. P. 41(b)
09 (defendant may move for dismissal based on failure to prosecute).

10 In this case, more than sixty days have elapsed since the Court's Report and
11 Recommendation was returned by the Post Office as undeliverable on January 24, 2011.
12 Given this fact, and given plaintiff's failure to keep the Court and defendants apprised of his
13 current mailing address, the Court recommends dismissal of this action without prejudice for
14 failure to prosecute. A proposed Order of Dismissal accompanies this Report and
15 Recommendation.

16 DATED this 4th day of April, 2011.

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19 Mary Alice Theiler
20 United States Magistrate Judge
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